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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,438	09/16/2003	Derrek William Batty	U 014818-3	1568
7590 William R. Evans Ladas & Parry 26 West 61 Street New York, NY 10023		11/16/2007	EXAMINER DREIDAME, HUNTER M	
			ART UNIT 3633	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,438	<b>Applicant(s)</b> BATTY, DERREK	
	<b>Examiner</b> Hunter M. Dreidame	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20,24-32 and 35 is/are allowed.
- 6) ☒ Claim(s) 17-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 22,23,33 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 18, 19, 33, and 34 are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 17, 18, 19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Moore.**

**As to claim 17**, Moore discloses a support device (10, Fig. 1) capable of use between a floor, a rib, and a roof when the rib is disposed between the floor and roof and is substantially perpendicular to each of the floor and roof, said support device comprising an expander (20, Fig. 3); and a pair of resilient members (24, Fig. 3) each

having a proximal end (end in contact with 26, Fig. 3) adapted for connection to the expander and a distal end (far left end of 24 in Fig. 3) curved away from the expander; wherein said expander is linearly expandable (via 30, Fig. 3) to drive the distal ends of said pair of resilient members away from each other in opposed directions such that, upon linear expansion of the expander with the support device disposed between a floor, rib, and roof, the expander can drive the distal ends of said pair of resilient members into engagement with a floor and a roof so that the resilient members bow and cause a portion of said support device (center of 10, Fig. 1) to be driven into abutment against the rib in a direction that is substantially transverse to the opposed directions.

**As to claim 18**, Moore discloses the device as claimed in claim 17, wherein the expander comprises an inner member (26, Fig. 3) that slides within an outer member (40, Fig. 3).

**As to claim 19**, Moore discloses the device as claimed in claim 18, wherein the inner member is straight (shown in Fig. 3).

**As to claim 21**, Moore discloses the support device as claimed in claim 17, wherein the expander comprises expansion means (clockwise and counterclockwise turning of 26, Fig. 3) for selective linear movement of the expander between an expanded configuration which permits the tensioning of the support device and an unexpanded configuration which inhibits the tensioning.

***Allowable Subject Matter***

Claims 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20, 24-35 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The combination of curved resilient members with a locking expansion member is not adequately shown in the prior art of record.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 17-35 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter M. Dreidame whose telephone number is (571)272-5177. The examiner can normally be reached on Monday - Friday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Hunter M. Dreidame, Patent Examiner  
October 29, 2007

Robert Canfield  
Primary Examiner

